

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION)	
OF DELMARVA POWER & LIGHT)	
COMPANY FOR AN INCREASE IN)	
ELECTRIC BASE RATES AND)	PSC DOCKET NO. 09-414
MISCELLANEOUS TARIFF CHANGES)	
(FILED SEPTEMBER 18, 2009))	

IN THE MATTER OF THE APPLICATION)	
OF DELMARVA POWER & LIGHT)	
COMPANY FOR APPROVAL OF A)	
MODIFIED FIXED VARIABLE RATE)	PSC DOCKET NO. 09-276T
DESIGN FOR ELECTRIC RATES)	
(FILED JUNE 25, 2009))	

**PETITION OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE
FOR LEAVE TO INTERVENE OUT OF TIME**

COMES NOW, the Attorney General of the State of Delaware, by and through the State Solicitor, pursuant to Rule 21 of the Rules of Practice and Procedure of the Delaware Public Service Commission, and petitions for leave to intervene in the above-captioned matter, on the following grounds:

1. Petitioner is Joseph R. Biden, III, Attorney General of the State of Delaware.

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email address: Joseph.Biden@state.de.us

telephone: 302-577-8400

fax number: 3020-577-6630

2. The attorney for Petitioner is Lawrence W. Lewis, State Solicitor

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3. As Attorney General of the State of Delaware, petitioner represents the interests of the public, and, accordingly may exercise broad powers under the common law. *See Darling Apt. Co. v. Springer*, 22 A.2d 397, 403 (Del. 1941) (“[A]s the chief law officer of the State, the Attorney General, in the absence of express legislative restriction to the contrary, may exercise all such power and authority as the public interest may from time to time require.”).

4. Petitioner requests that this late-filed petition be granted pursuant to Rule 21(b) of the Rules of Practice and Procedure of the Delaware Public Service Commission on the grounds that the position of Public Advocate only became vacant on December 31, 2010, and no replacement has been nominated by the Governor and confirmed by the Senate, as required by 29 *Del C.* § 8716(a). This petition is brought in good faith and not for purpose of vexation or delay. Petitioner has no objection to the Public Service Commission’s schedule to deliberate and decide the dockets as early as Tuesday, January 18, 2011, and the Petitioner hereby adopts as his own all pleadings, filings, exhibits, memoranda and briefs previously filed in these dockets by or on behalf of the Public Advocate. No party is prejudiced by the late substitution of the Attorney General for the Public Advocate as the representative of the interests of consumers in this matter, in the absence of a Public Advocate duly nominated by the Governor and confirmed by the Senate.

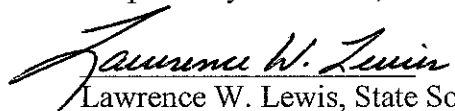
5. Petitioner’s participation in the proceeding is in the public interest because the consumers’ interests are not otherwise represented. The Public Advocate’s office is not

representing consumers because the position of Public Advocate is currently vacant. The General Assembly, in creating the position of Public Advocate, intended that the interests of consumers in the lowest reasonable rates consistent with maintaining utility service and equitable rate distribution be represented before the Public Service Commission. 29 Del. C. § 8716(d)(1)(2). The Attorney General, in his role as *parens patriae*, is the lawful representative of the State's consumers of electric power, and is the proper party to intervene on their behalf under these extraordinary circumstances.

6. Petitioner understands that the parties to the case have already presented their arguments and that the Commission will not be entertaining any additional argument. However, the Commission may have questions during its deliberations, and Petitioner believes it is imperative for a representative of the Attorney General on behalf of Delmarva's ratepayers to be available to answer any questions the Commission may have, in the absence of the Public Advocate.

7. WHEREFORE, the petitioner requests that he be granted leave to intervene and participate as a party in the above-captioned matter.

Respectfully submitted,



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State Solicitor
Office of the Attorney General of the State of Delaware

DATE: January 14, 2011

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)	
OF DELMARVA POWER & LIGHT COMPANY)	
FOR AN INCREASE IN ELECTRIC BASE)	PSC DOCKET NO. 09-414
RATES AND MISCELLANEOUS TARIFF)	
CHANGES (FILED SEPTEMBER 18, 2009))	

IN THE MATTER OF THE APPLICATION)	
OF DELMARVA POWER & LIGHT COMPANY)	
FOR APPROVAL OF A MODIFIED FIXED)	PSC DOCKET NO. 09-276T
VARIABLE RATE DESIGN FOR ELECTRIC)	
RATES (FILED JUNE 25, 2009))	

ORDER GRANTING ATTORNEY GENERAL
LEAVE TO INTERVENE OUT OF TIME

AND NOW, this 18th day of January, 2011, the Commission having considered the Petition of Joseph R. Biden, III, Attorney General of the State of Delaware, for leave to intervene out of time in this docket; and the Commission having considered the responses of the parties thereto; and the Commission having found that good cause exists as stated in the Petition to grant the Attorney General leave to intervene in the docket,

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS, that the Petition of Joseph R. Biden, III, Attorney General of the State of Delaware, for leave to intervene out of time is **GRANTED.**

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Alisa Carrow Bentley
Secretary

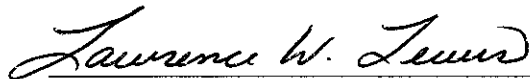
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CERTIFICATE OF SERVICE

Lawrence w. Lewis, State Solicitor, hereby certifies that on January 14, 2011, he caused a copy of the attached **PETITION OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE FOR LEAVE TO INTERVENE OUT OF TIME** to be served upon the following persons on the attached service list by electronic mail.



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Dated: January 14, 2011

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